PRESIDENT: I am putting the resolution to the vote.

MR. M. N. PARAMESVARAN PILLAI: Suppose this House is prepared to give permission to withdraw the resolution. Where is the necessity for putting to the vote the original proposition?

PRESIDENT: Any member can oppose when a member asks permission to withdraw a resolution. If any member opposes the withdrawal, that must be taken into account and the motion put to the House. Those who favour the resolution?

MR. P. PADMANABHAN TAMPI: Is it the rule that when a resolution is not allowed to be withdrawn the Chair should put it to the vote?

PRESIDENT: Yes. That is the rule.

The resolution was put to the vote and lost, none voting for the same.

MR. KAYALAM PARAMESVARAN PILLAI: Will it be recorded that there was nobody for the resolution?

PRESIDENT: Yes.

FIXING OF MINIMUM QUALIFICATIONS FOR JUDGES OF PANCHAYAT COURTS AND BENCH MAGISTRATES.

MR. P. PADMANABHAN TAMPI: I beg to move the following resolution:—

"*This Council recommends to the Government that a minimum qualification be prescribed for eligibility for the nomination of Panchayat Judges and Bench Magistrates*".

In moving this resolution, Sir, I may inform the House that I am putting the other aspects of the question of nomination of the Panchayat Judges and Bench Magistrates. At present there is absolutely no qualification fixed for the appointment of Judges in Panchayat Courts. Even for the Municipal Councils and for the Assembly some minimum qualification has been fixed. I have been speaking, Sir, that I know certain cases where literacy was not considered necessary for the appointment of Panchayat Court Judges.

MR. S. PIRAVIPERUMAL PILLAI: May I know from the member whether there is a qualification prescribed for the Dewan of Travancore?

MR. P. PADMANABHAN TAMPI: That question does not arise here.

MR. KAYALAM PARAMESVARAN PILLAI: Is the member aware that qualifications are prescribed for High Court Judges?

MR. P. PADMANABHAN TAMPI: I think qualifications are fixed. Without going to the qualifications of High Court Judges and the Dewan of Travancore, why not we go to the qualifications of District Munsiffs and Magistrates? When there are qualifications fixed for Munsiffs, Tahsildars and Magistsates, I think that for persons working in the lower ranks of the judiciary minimum qualifications may be

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fixed. In my view I think the qualifications fixed for the members of the Assembly may be prescribed for Panchayat Court Judges. Practising lawyers and those who have literary qualification may also be appointed as Panchayat Court Judges and Magistrates.

MR. K. GEORGE: Is any literary qualification fixed for the members of the Legislature?

MR. P. PADMANABHAN TAMPI: So far as Panchayat Court Judges and the Bench Magistrates are concerned I think over and above the qualification they possess as members of the Assembly they should be literates. That should be the minimum qualification.

MR. KAYALAM PARAMESVARAN PILLAI: What is the minimum qualification that the member suggests?

MR. P. PADMANABHAN TAMPI: That is qualification fixed for members of the Assembly along with literacy and also the qualifications of lawyers practising in the Munsiffs' and Magistrates' Courts may be fixed as the minimum qualification for Panchayat Court Judges and Bench Magistrates.

MR. M. GOVINDAN: I have great pleasure to second Mr. Padmanabhan Tampi's resolution that a minimum qualification in literacy should be fixed. What he said was that in addition to the above, a certain amount of tax payment also should be fixed. I believe it would be better if a man of some status in addition to literacy is appointed as Panchayat Court Judge.

MR. M. N. PARAMESVARAN PILLAI: Will the member be pleased to state whether he would recommend a sitting fee for the Panchayat Judges and the Bench Magistrates?

MR. M. GOVINDAN: No, because it is honorary work. There need not be any sitting fee. Only fairly well-to-do people need be appointed as Panchayat Court Judges.

MR. M. N. PARAMESVARAN PILLAI: Is not the member doing honorary work here and receiving sitting fee?

MR. M. GOVINDAN: Yes. I am getting sitting fee but this work is not purely honorary. It is no use quibbling with words. But that is work which is merely honorary and we need not have any sitting fee at this time when we are complaining about economic distress.

MR. K. GEORGE: Is it the idea that Panchayat Court Judges should have the qualification of an Assembly member plus literacy?

MR. M. GOVINDAN: That is what Mr. Padmanabhan Tampi means.

MR. K. GEORGE: But then we will have to eliminate those who are graduates and who do not pay any tax.

MR. M. GOVINDAN: That is a matter that may be considered. If he is a graduate he has got literacy as well as qualification for a membership in the Assembly.

MR. K. GEORGE: Suppose he is an Intermediate?

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MR. M. GOVINDAN: Then he is not fit. The qualification for Judgeship may be literacy plus qualification for membership in the Assembly. The qualification may be cumulative and not alternative

I support the resolution. There is no necessity for any speech, because after all what is wanted for this honorary work is that a man must be literate and he must be respectable. There is an assurance of it, if the qualification proposed by Mr. Padmanabhan Tampi is adopted.

MR. M. N. PARAMESVARAN PILLAI: Does the member recommend character as a qualification?

MR. M. GOVINDAN: Surely. But, Sir, it is a qualification which is very difficult to test.

MR. G. NARAYANA AIYAR: Sir, I would suggest that although literacy and other qualifications are necessary, a certain proportion of men who have legal talents should be taken into consideration. Although literacy is the minimum qualification a certain proportion of the Judges should be appointed from among the people who have legal qualifications.

MR. P. PADMANABHAN TAMPI: Is the member aware that I recommended all members of the Bar also?

MR. G. NARAYANA AIYAR: Yes. But should there be no proportion between members of the Bar and others? It is not possible to have all the Judges from the members of the Bar.

MR. P. PADMANABHAN TAMPI: It is only in fixing minimum qualification that I include all the members of the Bar.

MR. G. NARAYANA AIYAR: The member said literacy plus all the members of the Bar. I cannot understand that.

What I would suggest is if literacy alone be the test some proportion be fixed for persons with literacy alone and another proportion for persons with legal knowledge also.

MR. P. PADMANABHAN TAMPI: Does the member advocate illiterate persons?

MR. G. NARAYANA AIYAR: No. Beyond literacy there should be a certain proportion of persons who will be able to deal with questions of law. If you appoint only literate persons as judges who know nothing of law, that will not be of any use. A certain proportion will have to be fixed for selection from legally trained men. I would propose such an amendment and not literacy and other qualifications alone.

MR. KOCHIKAL P. BALAKRISHNAN TAMPI: Sir, I oppose the resolution. But sympathising with the spirit in which it is moved I wish to offer a few remarks. In its very nature it is very difficult to limit or to define the qualification. Therefore in this matter I believe the best policy is to appeal to Government to nominate only persons who are really fit and efficient men of character. It would be grotesque if they are going to prescribe a qualification. After all, the trend of discussion so far came to this—that a man who is sufficiently literate can be nominated as a Judge of the Panchayat Court. Well, that is a proposition to which every lover of justice would demur. Therefore my view is that the Government must see that hereafter only efficient, fit and respectable men, men of character, are nominated to these places.

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MR. M. GOVINDAN: May I know from the member what should be the test that Government should prescribe for selecting Panchayat Court Judges?

MR. KOCHIKAL P. BALAKRISHNAN TAMPI: I am not for educational test or character test as in America. There is that evasive quality of virtue and respectability, which defies definition. Such matters we can entrust to the Government. That is my view.

MR. K. GEORGE: Sir, I am afraid that the mover of the resolution has fixed the qualifications too low. Government, when they make nominations, look into the educational qualification, social position and character of the person recommended. These are the three principles on which Government make their nominations.

MR. M. N. PARAMESVARAN PILLAI: Do they consider reputation also?

MR. K. GEORGE: Character includes reputation also.

MR. P. PADMANABHAN TAMPI: Are qualifications fixed in any rule or procedure?

MR. K. GEORGE: That is not necessary. Government see that the persons selected possess the requisite qualifications. What I stress is that it is not enough if a man is literate and pays five rupees as tax. What is needed is much more than that. Therefore, those considerations I have mentioned are taken into account when nominations are made and I think it is better to leave this matter in the hands of Government which invariably see that they select the best men available for the post. As I said literacy is a very unsatisfactory test.

As regards the qualifications that the persons should be eligible for election to the Assembly I think there are very many persons in this country who are not eligible to come into the Assembly and the Council but are quite fit to serve as Panchayat Judges. It is unfortunate if these people are debarred from doing such public work. So, I hope Mr. Padmanabhan Tampi will accept the assurance that, as has been their policy, likewise Government will in future also select only persons who have got educational qualifications, sufficient social position and character as Judges of Panchayat Courts.

MR. P. PADMANABHAN TAMPI: On the assurance given by the member, I withdraw the resolution.

The resolution was, by leave, withdrawn.

PRESIDENT: That closes the business of the day and the House will adjourn *sine die*.

The non-official members will kindly wait to elect one member for the Finance Committee and one member for the Public Accounts Committee. Dr. K. Madhavan Pillai will kindly take the Chair.

The Council adjourned *sine die* at 3-33 P. M.

P. PARAMESVARAN PILLAI,

Secretary to the Sri Chitra State Council.

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